

ESTTA Tracking number: **ESTTA479049**

Filing date: **06/20/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Grand River Enterprises Six Nations Ltd.
Granted to Date of previous extension	06/23/2012
Address	P.O. Box 760, 2176 Chiefswood Road Ohsweken, ON N0A 1M0 CANADA

Attorney information	Mark A. Koch 583 Main Street East Hamilton, ON L8M1J4 CANADA koch@bellnet.ca Phone:9055495880
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Applicant Information

Application No	85450714	Publication date	04/24/2012
Opposition Filing Date	06/20/2012	Opposition Period Ends	06/23/2012
Applicant	VMR PRODUCTS, LLC 1521 Alton Rd. #275 Miami Beach, FL 33139 UNITED STATES		

Goods/Services Affected by Opposition

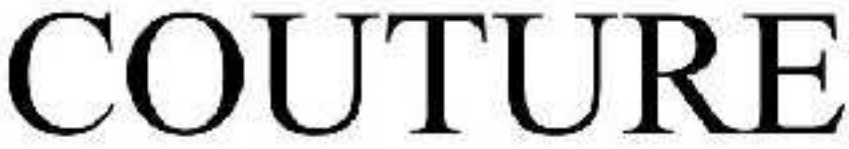
Class 034. All goods and services in the class are opposed, namely: Electronic cigarettes for use as an alternative to traditional cigarettes, not including smokeless tobacco; and smokeless cigarette vaporizer
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3729797	Application Date	12/22/2008
Registration Date	12/22/2009	Foreign Priority Date	NONE

Word Mark	COUTURE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 2009/11/01 First Use In Commerce: 2009/11/01 cigarettes

Attachments	77637740#TMSN.jpeg (1 page)(bytes) 688T46NoticeOfOpposition.pdf (11 pages)(801708 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Mark A Koch/
Name	Mark A. Koch
Date	06/20/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No 85450714

For the mark “**VAPOR COUTURE**”

Published in the Trademark Official Gazette on April 24, 2012

Grand River Enterprises Six Nations Ltd.,

Opposer,

v.

VMR Products LLC DBA V2 Cigs Limited Liability Company Florida

Applicant.

NOTICE OF OPPOSITION

Opposer: Grand River Enterprises Six Nations Ltd., a corporation organized and existing under the laws of the Province of Ontario, Canada, with offices at 2176 Chiefswood Road, Ohsweken, Ontario, Canada N0A1M0 believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same and requests that registration to applicant be refused.

Grand River Enterprises Six Nations Ltd. (“Grand River” or “Opposer”), by and through its below-identified attorneys, hereby opposes VMR Products LLC DBA V2 Cigs (hereinafter referred to as “VMR” or “Applicant”) trademark application serial number 85/450,714 based upon information and belief, Opposer avers the following reasons why it will be damaged by the

registration of the opposed mark:

The standing and grounds for opposition are as follows:

1. Applicant seeks to register a mark that consists of the phrase VAPOR COUTURE. On October 19, 2011 Applicant filed an application in the United States Trademark Office ("Office") to register the VAPOR COUTURE mark application number 85450714 for use in connection with: electronic cigarettes for use as an alternative to traditional cigarettes, not including smokeless tobacco, and smokeless cigarette vaporizer. The application is an intent-to-use application filed under 15 U.S.C. § 1051 (b).
2. Opposer has obtained the necessary extensions of time in which to file this Notice of Opposition. Accordingly, this Notice of Opposition is being timely submitted.
3. Opposer owns the trademark COUTURE registration Number 3729797 , and uses its mark in U.S. commerce for or in connection with cigarettes. Opposer has used its mark in the United States since at least as early as November 1, 2009.
4. The aforesaid registration is at least *prima facie* evidence of the validity of the registration, of Opposer's ownership thereof, and of Opposer's exclusive right to use such registered mark on the goods or services set forth in the registration.
5. Opposer has sold and/or sells cigarettes under its COUTURE mark to United States customers.
6. Opposer's COUTURE mark, and the cigarettes sold to United States customers under the mark, have a well-established reputation and are famous among United States customers.

7. Opposer also owns the Canadian registered mark for COUTURE, Reg. No.TMA776999 in connection with cigarettes goods, as detailed in the attached Exhibit A. Opposer's Canadian mark has been registered and is in use since September 13, 2010.
8. The Applicant was required to disclaim in accordance with the examiners findings "the descriptive word "VAPOR" apart from the mark as shown because it merely describes a feature and characteristic of the goods". Therefore it follows "COUTURE" is the distinctive portion of the applicants mark. Applicant's mark contains the identical distinctive term COUTURE, and thus confusingly similar, to Opposer's mark COUTURE and is likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).
9. Applicant's applied for goods namely: electronic cigarettes for use as an alternative to traditional cigarettes, not including smokeless tobacco, and smokeless cigarette vaporizer are so closely related to cigarettes that it will cause confusion, cause mistake, or deceive the buying consumer.
10. Applicant's mark will cause dilution of Opposer's famous mark.
11. Opposer will also be damaged by Applicant's registration of the mark shown in the Opposed Application because registration would give Applicant *prima facie* evidence of its ownership of an exclusive right to use a mark that is confusingly similar to Opposer's mark, which rights would interfere with Opposer's continued use of its mark.
12. Opposer, Grand River Enterprises Six Nations Ltd., believes that registration of Serial number 85450714, Filing Date October 19, 2011 for VAPOR COUTURE should be refused because of inevitable confusion or alternatively a likelihood of confusion with Opposer's registered trademark for COUTURE.

13. Applicant has created an inference of intentional confusion and inevitable confusion that makes Applicant's mark legally identical to Opposer's mark.
14. Applicant is using or intending on using the applied for mark in advertisements and or articles for electronic cigarettes for use as an alternative to traditional cigarettes see Exhibit B.
15. The public interest is served by removing marks that cause inevitable confusion from the register.
16. Applicant's use of VAPOR COUTURE creates an inference that the use and resultant confusion is intentional.
17. Priority is not at issue. Opposer is the owner of the Registered trademark 3729797 Filing Date December 22, 2008, Registration Date December 22, 2009. This mark predates the filing date of the Applicant namely October 5, 2011.
18. Opposer believes that the subject application should be refused under Trademark Act Section 2(d) because of the likelihood of confusion with the registered trademark and the presently approve trademark because the subject application is both in classification that would be related or associated with cigarettes or the classifications are in direct conflict and are substantially identical to Opposer's marks (Cigarettes).
19. The question is whether the marks will confuse people into believing that the goods they identify come from the same source. In this case the marks share terms with identical spelling and appearance namely the word COUTURE and the marks create similar overall commercial impressions and would inevitably share avenues of trade.

20. It is a general rule that likelihood of confusion is not avoided between otherwise confusingly similar marks merely by adding or deleting matter that is descriptive or suggestive of the named goods or services. The Applicant was required to disclaim in accordance with the examiners findings “the descriptive word “VAPOR” apart from the mark as shown because it merely describes a feature and characteristic of the goods”. Therefore “COUTURE” is the distinctive portion of the applicants mark. Sometimes, the rule is expressed in terms of the dominance of the common term. Therefore, if the dominant portion of both marks (in this case COUTURE) is the same then confusion may be likely notwithstanding peripheral differences (See TMEP 1207.01(b)(iii) Comparing Marks That Contain Additional Matter.) Adding the descriptive term VAPOR in this case is a peripheral difference which does not change the similarities between the marks with regard to how they will be seen by the average purchaser.
21. Since the marks are confusingly similar and the goods are substantially identical there is a likelihood of confusion as to the source of applicant’s goods.
22. Opposer has developed, at great effort and expense, exceedingly valuable goodwill with respect to its COUTURE mark.
23. Potential purchasers, upon seeing Applicant’s VAPOR COUTURE mark used in connection with Applicant’s Goods, are likely to mistakenly believe that such a term and the goods offered thereunder originate with or are connected with, sponsored by, associated with, or licensed or approved by Opposer. Thus, the registration and use by Applicant of Applicant’s VAPOR COUTURE mark in connection with its recited goods is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).
24. Issuance of a registration to Applicant for its VAPOR COUTURE mark would also diminish the distinctive quality of Opposer’s rights in it famous COUTURE mark and would blur and otherwise impair the distinctiveness of this mark, in violation of 15 U.S.C. § 1125(c).

25. If a registration is issued to Applicant for Applicant's VAPOR COUTURE mark, the confusion with Opposer's marks would result in damage and injury to Opposer and the public. Registration of this term would give Applicant an unqualified right to wrongfully appropriate Opposer's valuable goodwill and reputation associated with Opposer's marks; to benefit from the likely confusion among purchasers led to believe that Applicant's goods are related in some fashion to Opposer; to dilute the distinctiveness of Opposer's marks and harm its goodwill and reputation associated with its marks; to tarnish Opposer's good name by offering products not subject to Opposer's quality controls.

WHEREFORE, Opposer requests that this Opposition be sustained and Application Serial No. 85/450714 be refused registration.

WHEREFORE, Opposer requests that the Office deny Applicant's application for registration of the mark shown in Application No. 85/450714, and grant such other and further relief to Opposer that the Office deems proper.



Submitted By: /Mark A. Koch/

Date: June 19, 2012

Mark A. Koch Professional Corporation

Attorney for the Opposer

583 Main Street East

Hamilton, Ontario

Canada L8M 1J4

Email: koch@lawkoch.com

Certificate of Service

I hereby certify that a true and complete copy of the forgoing Notice of Opposition regarding VAPOR COUTURE has been served on VMR Products LLC DBA V2 Cigs Limited Liability Company Florida, by transmission by overnight courier to:

VMR Products LLC DBA V2 Cigs Limited Liability Company Florida
1521 Alton Rd.
#275 Miami Beach, Florida
33139

Dated: June 19, 2012

By:

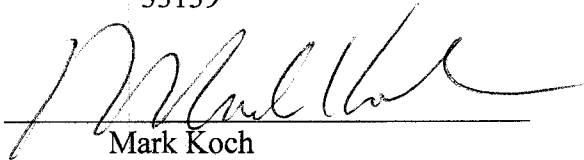

Mark Koch

EXHIBIT A

Registration of the Trademark COUTURE in Canada



Canadian Intellectual
Property Office

An Agency of
Industry Canada

Office de la propriété
intellectuelle du Canada

Un organisme
d'Industrie Canada

Canada

Canadian Intellectual Property Office

Canadian Trade-marks Database

CANADIAN TRADE-MARK DATA

[Search Page](#)

*** Note Data on trade-marks is shown in the official language in which it was submitted.

The database was last updated on: 2012-06-12

APPLICATION NUMBER:

1422621

REGISTRATION NUMBER:

TMA776999

STATUS:

REGISTERED

FILED:

2008-12-22

FORMALIZED:

2009-01-05

ADVERTISED:

2009-10-14

REGISTERED:

2010-09-13

REGISTRANT:

Grand River Enterprises Six Nations Ltd.
PO Box 760, 2176 Chiefswood Road
Ohsweken
NOA 1M0
ONTARIO

REPRESENTATIVE FOR SERVICE:

MARK ARTHUR KOCH
583 MAIN STREET EAST
HAMILTON
ONTARIO L8M 1J4

TRADE-MARK:

COUTURE

INDEX HEADINGS:

COUTURE

WARES:

(1) Cigarettes.

CLAIMS:

Declaration of Use filed September 13, 2010.

ASSOCIATED MARKS:

TMA801,986

EXHIBIT B

Article regarding V2 Cigs launch of VAPOR COUTURE


[About Us](#) [Contact Us](#) [Help](#)

Client login: user name password

First time user [sign up](#) [Forgot your login info?](#)

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[Home](#) > [News By Company](#) > [TheElectronicCigarettesReviews.Com](#)

V2 Cigs Will be Soon Introducing Vapor Couture for Women Reviews Theelectroniccigarettesreviews.com

Theelectroniccigarettesreviews.com informs the smokers about the Vapor Couture powered by V2 Cigs in July 2012. The brand will be introducing fashionable e cigs especially for the women.

([EMAILWIRE.COM](#), June 03, 2012) Dallas, TX -- Theelectroniccigarettesreviews.com informs the smokers about the Vapor Couture powered by V2 Cigs. Reports explain that the brand will be launching the Vapor Couture in July of this year. Vapor Couture is a new high end brand powered by V2 Cigs. The Vapor Couture will be featuring slim e cigs in elegant and designable accessories for the women. Also the [electronic cigarettes](#) of Vapor Couture can be customized with delicious and mouth watering flavors and jewel accents.

As per the [electronic cigarette review](#), the Vapor Couture is a luxurious e cig for fashionable women. Reviews explain that the slim e cigs of Vapor Couture will be tipped with the sparkling crystal LED. The [e cigarettes](#) will be available in a variety of finishes and color straight off the runway. Experts say that the cartridges of Vapor Couture will be color coordinated with the batteries to provide a rich and elegant look to the customers. Also the users will be able to select the cartridges in delicious flavor choices. The Vapor Couture provides the smokers with the flexibility to accessorize the electronic cigarettes of Vapor Couture with sleek leather wallets, charms and jewelries. Experts say that the with the e cigs of Vapor Couture, women can have a better smoking experience in a unique style.

[electronic cigarette](#) reviews explain that a lot of smokers prefer V2 Cigs over other e cigs. One of the smokers said "I tried e cigs from 5 companies. I became so frustrated because the batteries would only work for a couple of days and then become utterly useless. Then I read a couple of reviews on V2. They were consistently rated very highly; I decided to give them a try. They have thousands of flavors, and you can create your own and one V2 cartridges will last for weeks. Their customer service is spot on. Standard shipping takes about 4-5 business days. Quitting used to be hard. Not so anymore! I've had an incredible experience with V2."

About Theelectroniccigarettesreviews.com

Website theelectroniccigarettesreviews.com is the helpful resource for true and honest reviews about most popular brands electronic cigarettes based on the feedback from real users of electronic cigarette. The site encourages every buyer to read electronic cigarette reviews about his desire brand before ordering the kit of best electronic cigarette. Smoker should cross check and compare brands of electronic cigarettes on different websites of electronic cigarette review for selection of suitable electronic cigarette.

Contact Information:

[TheElectronicCigarettesReviews.Com](#)
 Katherine Petrova
 Tel: 1246466607
[Email us](#)

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